

**§ 460.66**

(i) Be a graduate of an occupational therapy curriculum accredited jointly by the Committee on Allied Health Education and Accreditation of the American Medical Association and the American Occupational Therapy Association or other equivalent organizations approved by the Secretary.

(ii) Be eligible for the National Registration Examination of the American Occupational Therapy Association.

(iii) Have 2 years of appropriate experience as an occupational therapist and have achieved a satisfactory grade on a proficiency examination conducted, approved, or sponsored by the U.S. Public Health Service, except that the determination of proficiency does not apply with respect to persons initially licensed by a State or seeking initial qualification as an occupational therapist after December 31, 1977.

(iv) Have a minimum of 1 year's experience working with a frail or elderly population.

(5) *Recreation therapist or activities coordinator.* A recreation therapist or activities coordinator must have 2 years experience in a social or recreational program providing and coordinating services for a frail or elderly population within the last 5 years, one of which was full-time in a patient activities program in a health care setting.

(6) *Dietitian.* A dietitian must meet the following requirements:

(i) Have a baccalaureate or advanced degree from an accredited college with major studies in food and nutrition or dietetics.

(ii) Have a minimum of 1 year's experience working with a frail or elderly population.

(7) *Drivers.* A PACE center driver must meet the following requirements:

(i) Have a valid driver's license to operate a van or bus in the State of operation.

(ii) Be capable of, and experienced in, transporting individuals with special mobility needs.

**§ 460.66 Training.**

(a) The PACE organization must provide training to maintain and improve the skills and knowledge of each staff member with respect to the individual's specific duties that results in his or her continued ability to dem-

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onstrate the skills necessary for the performance of the position.

(b) The PACE organization must develop a training program for each personal care attendant to establish the individual's competency in furnishing personal care services and specialized skills associated with specific care needs of individual participants.

**§ 460.68 Program integrity.**

(a) *Persons with criminal convictions.* A PACE organization must not employ individuals or contract with organizations or individuals—

(1) Who have been excluded from participation in the Medicare or Medicaid programs;

(2) Who have been convicted of criminal offenses related to their involvement in Medicaid, Medicare, other health insurance or health care programs, or social service programs under title XX of the Act; or

(3) In any capacity where an individual's contact with participants would pose a potential risk because the individual has been convicted of physical, sexual, drug, or alcohol abuse.

(b) *Direct or indirect interest in contracts.* Except as provided in paragraph (c) of this section, no member of the PACE organization's governing body or any immediate family member may have a direct or indirect interest in any contract that supplies any administrative or care-related service or materials to the PACE organization.

(c) *Waiver.* (1) HCFA and the State administering agency may waive the requirement in paragraph (b) of this section for PACE organizations in the following communities:

(i) Rural.

(ii) Tribal.

(iii) Urban Indian.

(2) If an applicant seeking approval as a PACE organization believes a waiver under this paragraph is warranted, it must include a request for the waiver in its application that meets the following requirements:

(i) Identifies the rural, tribal, or urban Indian community.

(ii) Establishes recusal restrictions for each member of the PACE organization governing body or immediate family member to which the exception would apply.

(iii) Establishes a process to record recusal actions on a case-by-case basis.

(iv) Establishes a process to make available to the public the general recusal restrictions and record of actions.

(3) HCFA and the State administering agency may grant a waiver if they determine the following:

(i) There is insufficient availability in the PACE organization's service area of individuals who could meet the requirement.

(ii) The proposed alternative does not adversely affect the availability of care or the quality of care that is provided to participants.

(d) *Disclosure requirements.* A PACE organization must have a formal process in place to gather information related to paragraphs (a) and (b) of this section and must be able to respond in writing to a request for information from HCFA within a reasonable amount of time.

#### § 460.70 Contracted services.

(a) *General rule.* The PACE organization must have a written contract with each outside organization, agency, or individual that furnishes administrative or care-related services not furnished directly by the PACE organization except for emergency services as described in § 460.100.

(b) *Contract requirements.* A contract between a PACE organization and a contractor must meet the following requirements:

(1) The PACE organization must contract only with an entity that meets all applicable Federal and State requirements, including, but not limited to, the following:

(i) An organizational contractor, such as a hospital, must meet Medicare or Medicaid participation requirements.

(ii) A practitioner or supplier must meet Medicare or Medicaid requirements applicable to the services it furnishes.

(iii) A contractor must comply with the requirements of this part with respect to service delivery, participant rights, and quality assessment and performance improvement activities.

(2) A contractor must be accessible to participants, located either within or

near the PACE organization's service area.

(3) A PACE organization must designate an official liaison to coordinate activities between contractors and the organization.

(c) *List of contractors.* A current list of contractors must be on file at the PACE center and a copy must be provided to anyone upon request.

(d) *Copies of signed contracts.* The PACE organization must furnish a copy of each signed contract for inpatient care to HCFA and the State administering agency.

(e) *Content of contract.* Each contract must be in writing and include the following information:

(1) Name of contractor.

(2) Services furnished.

(3) Payment rate and method.

(4) Terms of the contract, including beginning and ending dates, methods of extension, renegotiation, and termination.

(5) Contractor agreement to do the following:

(i) Furnish only those services authorized by the PACE multidisciplinary team.

(ii) Accept payment from the PACE organization as payment in full, and not bill participants, HCFA, the State administering agency, or private insurers.

(iii) Hold harmless HCFA, the State, and PACE participants if the PACE organization does not pay for services performed by the contractor in accordance with the contract.

(iv) Not assign the contract or delegate duties under the contract unless it obtains prior written approval from the PACE organization.

(v) Submit reports required by the PACE organization.

#### § 460.72 Physical environment.

(a) *Space and equipment—(1) Safe design.* A PACE center must meet the following requirements:

(i) Be designed, constructed, equipped, and maintained to provide for the physical safety of participants, personnel, and visitors.

(ii) Ensure a safe, sanitary, functional, accessible, and comfortable environment for the delivery of services